



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, N.Y. 10007

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February 27, 2025

**VIA ECF**

Honorable Katherine Polk Failla  
United States District Judge  
United States District Court  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: Eduardo Placencia, Jr. v. City of New York, et al.,  
24 Civ. 07215 (KPF)

Your Honor:

I am a Senior Counsel in the office of Muriel Goode-Trufant, Corporation Counsel of the City of New York, and the attorney representing defendants Tyneka Greene, Mark Ballah, Charlton Lemon, and the City of New York (“defendants”) in the above-referenced matter.<sup>1</sup> Defendants write to respectfully request that defendants’ responses to court-ordered discovery requests pursuant to Local Civil Rule 33.2 be held in abeyance until a decision has been rendered with respect to defendants’ motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

By way of relevant background, plaintiff who is proceeding *pro se*, brings this action, pursuant to 42 U.S.C § 1983, against defendants City of New York, Tyneka Greene, Mark Ballah, Charlton Lemon and Gainiess alleging, *inter alia*, failure to protect, unconstitutional conditions of confinement, and New York State law claims for intentional infliction of emotional distress and negligent infliction of emotional distress. Plaintiff filed this action in the Southern District of New York on September 23, 2024. On October 3, 2024, Your Honor dismissed “all

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<sup>1</sup> This case has been assigned to Assistant Corporation Counsel Shreya Krishnamurthy, who is awaiting admission to the New York State Bar. Ms. Krishnamurthy is handling this matter under my supervision and may be reached at (212) 356-2671 or shrekris@law.nyc.gov.

plaintiffs except [p]laintiff Eduardo Placencia, Jr.,” substituted the City of New York for “NYC/NYC DOC” as a defendant, ordered that the named defendants waive service of summons by November 4, 2024, and ordered that defendants serve responses to court-ordered discovery requests pursuant to Local Civil Rule 33.2 within 120 days of service of the Complaint. ECF No. 7. Defendants Greene, Ballah, and Lemon waived service of summons on November 1, 2024 and defendant City of New York waived service on November 4, 2024.<sup>2</sup> See ECF Nos. 9, 10. On January 2, 2025, the Court granted defendant City of New York’s request for an extension of time to respond to the Complaint until February 2, 2025 and granted defendants Greene, Ballah and Lemon a corresponding extension of time to respond to the Complaint. See ECF No. 13. On February 3, 2025, defendants requested a pre-motion conference to discuss their anticipated motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. See ECF No. 15. Plaintiff filed a letter, dated February 7, 2025, in opposition to defendants’ request for a pre-motion conference. See ECF No. 18. On February 19, 2025, the Court scheduled a pre-motion conference to discuss defendants’ anticipated motion to dismiss to be held on April 1, 2025 at 10 a.m. See ECF No. 19.

Accordingly, defendants respectfully request that defendants’ responses to court-ordered discovery requests pursuant to Local Civil Rule 33.2 be held in abeyance until a decision has been rendered with respect to defendants’ motion to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Thank you for your consideration herein.

Respectfully submitted,

/s/ Inna Shapovalova

Inna Shapovalova

*Senior Counsel*

Special Federal Litigation Division

cc: **VIA FIRST-CLASS MAIL**

Eduardo Placencia, Jr.

*Plaintiff pro se*

DIN# 25-B-0225

Elmira Correctional Facility

1879 Davis Street

P.O. Box 500

Elmira, NY 14902-0500

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<sup>2</sup> It should be noted that the executed waiver of service of summons filed on November 1, 2024 was submitted on behalf of Defendants Greene, Ballah, and Lemon only, as those are the only defendants that New York City Department of Correction was able to identify. The text of Docket Entry No. 9 erroneously includes defendant Gainess as having waived service of summons.

Application GRANTED. Defendants' responses to the Court-ordered discovery shall be held in abeyance until a decision has been rendered on Defendants' anticipated motion to dismiss.

Furthermore, the Clerk of Court is directed to amend docket entry 9 to reflect that waiver of service was filed on behalf of Defendants Green, Ballah, and Lemon. Defendant Gainiess has not waived service of summons.

The Clerk of Court is further directed to terminate the pending motion at docket entry 20, and to mail a copy of this order to Plaintiff at the following address:

Eduardo Placencia, Jr.  
DIN#: 25-B-0225  
Elmira Correctional Facility  
1879 Davis Street  
P.O. Box 500  
Elmira, NY 14902-0500

Dated: February 28, 2025  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE